



CITY OF CAMBRIDGE

FIRE DEPARTMENT

ISO Class 1 Fire Department
HEADQUARTERS
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TO: City Manager Robert W. Healy

FROM: Assistant Chief Gerard E. Mahoney

DATE: May 9, 2013

RE: Policy Order O-8 Dated March 18, 2013 regarding trains carrying Ethanol.

Global Partners, LP (Global) operates a bulk petroleum storage terminal located on Route 1A (Lee Burbank Highway) in Revere, Massachusetts. At this facility, Global stores and mixes gasoline, ethanol, and other fuels for distribution to the New England market. The ethanol shipped to and stored at the facility is primarily used to mix with gasoline, as required by the Clean Air Act Amendments of 1990, in order to reduce carbon monoxide emissions and other impacts of gasoline.

Global intends to upgrade and modernize the existing railcar unloading facility at its Revere terminal. These site improvements will be made in coordination with a project by Pan Am Southern Railroad to upgrade the rail line spur that connects to the facility; these improvements would allow Global to receive ethanol by railcar. The proposed delivery of ethanol by rail would supplement and possibly replace existing deliveries by barge and truck.

The rail deliveries of ethanol would principally originate in the Midwest and be moved through Western Massachusetts and ultimately to the Revere location. It is expected that the rail deliveries will primarily be unit trains, a term for a freight train consisting of railcars hauling only one dedicated commodity.

The Massachusetts Department of Transportation, Office of Transportation Planning convened a study group at the direction of the Massachusetts legislature in response to concerns over the transportation of ethanol by train through the following communities: Boston, Cambridge, Chelsea, Everett and Revere. The City of Somerville requested and the study group agreed that the study area be expanded to include Somerville as well.

The study group was charged with determining the impact on the public safety of transporting ethanol by train through the cities of Boston, Cambridge, Chelsea, Everett, Revere and Somerville.

Among the members of the study group were representatives of the fire service from the communities potentially affected.

The recommendations of the fire service leaders included significant increases to the current stockpiles of alcohol resistant firefighting foam, the purchase of four pieces of apparatus more commonly known as "Foam Tenders", the training of twelve regional training instructors in flammable liquid fire fighting tactics and the conduction of annual "Tabletop and Functional" Exercises to assist the region in preparation and training for potential emergencies.

While local first responders are charged with planning for and response to emergencies involving trains carrying ethanol; or other hazardous materials, the railroads are regulated almost exclusively at the federal level. Railroad operations are under the jurisdiction of the Surface Transportation Board (STB). Railroad safety standards are governed by the Federal Railroad Administration (FRA), and railroads are required to work with the Department of Homeland Security (DHS) on railroad security issues.

The rail lines that will carry the proposed ethanol unit trains are owned by the MBTA as part of the commuter rail network. The Grand Junction Railroad was previously owned by CSX. When it was sold to the MBTA, CSX retained the right to operate freight service over that line. The other four rail lines in the proposal were sold by Boston & Maine Railroad in 1976. Pan Am Railways, the successor to Boston & Maine, retains a similar easement to provide rail freight transportation along its rail lines.

Under STB rules, state or local laws and regulations are preempted for railroad operations in order to ensure uniform regulation of railroad operations and to safeguard interstate commerce. See 49 U.S.C. 10501(b).

These laws shield railroad operations that are subject to the STB's jurisdiction from the application of many state and local laws, including local zoning and permitting laws and laws that would have the effect of managing or governing rail transportation. This preemption, therefore, limits state or local actions from blocking or regulating the rail transportation of ethanol, or any other railroad activity that is regulated at the federal level.

It may be instructive to note what happened in the Town of Ayer, MA. The town attempted to impose a set of 36 conditions on the issuance of a permit for construction on property Pan Am Railways purchased adjacent to its tracks in 1997. The Federal Court found the Town of Ayer was violating the preemption afforded to railroad operations.

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Committee on Financial Services
Ranking Democratic Member
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Committee on Transportation &
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Committee on Ethics



Congress of the United States

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Michael E. Capuano

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Mayor Henrietta Davis
Cambridge City Hall
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April 26, 2013

APR 30 10 34 AM '13
U.S. HOUSE OF REPRESENTATIVES

Dear Mayor Davis:

I am writing to you in response to recent correspondence I received from the Cambridge City Council regarding a proposal to bring ethanol through several Massachusetts communities by rail. I understand the Council's concerns and support its efforts to find a safer way to transport ethanol through heavily populated areas.

As you know, my office approaches all issues honestly, even when I expect the response may not be what is hoped for. Therefore, I am compelled to inform the Council it is my understanding that neither federal nor state law seems to provide ways to prevent ethanol from being transported through any community. There are laws and regulations available to ensure safety, but bans on the transport of hazardous materials have not been upheld in court. The Council may know that the Washington DC City Council enacted a ban on hazmat transportation through the city, but it was struck down in federal court. As far as I know, no other city has passed legislation banning the transit of hazardous materials and had the ban stand up in court. Of course, if others can identify alternative paths to judicial success, I stand ready to support them.

I am sure the Council realizes that ethanol is currently transported by rail through many urban, rural and suburban communities all over the country, including in Massachusetts. It is my understanding that the Cambridge Fire department is informed pursuant to state and federal regulation of such transits and is prepared to handle emergencies related to them. I have been informed that any local or state restrictions imposed on rail transportation of hazmat are pre-empted by interstate commerce regulations. The Federal Railroad Administration (FRA) informs me that they do not have jurisdiction to deny ethanol or other hazardous materials transit and do not have the authority to require the use of certain routes. The FRA does regulate track safety, street crossings, operational requirements and the integrity of tanker cars. I have asked that the FRA carefully review the integrity of the infrastructure that could be used for ethanol transport and I am confident this request will be supported.

It is my understanding that substantial work must be undertaken on the rail line that connects to Global Petroleum's ethanol facility in Revere. Improvements may also be necessary elsewhere on the routing lines under consideration before they may be used for ethanol trains. I am confident that FRA will only allow ethanol trains on lines that meet FRA safety and operational standards and I will work hard to ensure that this confidence is well placed.





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I have also reached out to the Environmental Protection Agency (EPA), the Transportation Security Administration (TSA) and the United States Coast Guard (USCG). It is my understanding that EPA does not have a role in allowing or disallowing the transportation of ethanol. TSA informed me that ethanol is not a Rail Security Sensitive Material (RSSM) and therefore TSA does not require additional safety and/or security measures for its transportation. Please note that if ethanol were deemed an RSSM, it is my understanding that TSA still could not prohibit it. Given that the storage facility is along the water, the USCG is required to approve the facility's security procedures. I have long experience with the Coast Guard and am confident this is a responsibility that the USCG takes very seriously.

While I regret that my initial review of the matter indicates ethanol transport cannot be prohibited, I believe my office can be helpful in other areas. One suggestion would be to have city public safety officials assess the city and region's preparedness for a release of ethanol. I have read the MassDOT report on ethanol and understand that area fire chiefs believe there is a need for staff training and equipment. My office stands ready to aggressively support any municipal or state effort to access federal funding or seek mitigation. I also strongly support making sure first responders are informed in a timely fashion when ethanol will be transported.

Although I am not optimistic that I can prevent this proposal from being implemented, I will continue doing everything I can to be sure that the interests of our communities are protected. Particularly in the aftermath of the Marathon bombings, I understand the unease you may feel and the desire to make sure that everything possible is done to protect public safety. Please keep my office informed of the Council's actions and any support I can offer in your endeavors.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Capuano".

Michael E. Capuano
Member of Congress

CC:
Members of the Cambridge City Council
Robert W. Healy, City Manager

